IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 4633 of 1987
DATE OF DECISION: 29.11.2006
****

The Bir Rauke Cooperative Agricultural Service Society Ltd.

..PETITIONER

VS.

Presiding Officer, Labour Court, Bhatinda and others.

..RESPONDENTS

with **C.W.P. No. 4634 of 1987**
****

The Bir Rauke Cooperative Agricultural Service Society Ltd.

..PETITIONER

VS.

Presiding Officer, Labour Court, Bhatinda and others.

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARVIND KUMAR,

Present:- **Mr. Hemraj Mittal, Advocate**
for the petitioner.

Mr. Rajive Godara, Advocate with
Ms. Divya Godara, Advocate
for the respondents.
****

JUDGMENT:

This judgment shall dispose of CWP Nos. 4633 and 4634 of 1987.

Both the above-referred petitions involve a common question of law and facts.

The facts necessary for the disposal of both the writ petitions

are that the services of workmen Baldev Singh and Amlok Singh (respondent No.2 in CWP No.4633 and 4634 respectively) were terminated by the petitioner Society. Aggrieved with the same, both the workmen raised industrial disputes, which were referred to the Labour Court for adjudication. On the basis of an amicable settlement the claims of the workmen were answered in their favour vide award dated 12th May 1983 to the effect that the workmen shall be re-instated with continuity of service. However, they were not granted the back wages and were directed to report for duty on or before Ist June 1983.

Thereafter, both the workmen Baldev Singh and Amolak Singh filed separate applications under Section 33-C(2) of the **Industrial Disputes Act, 1947** (for brevity the Act) before the Labour Court, which were registered as Application Nos.835 and 844 dated 6.12.1983 respectively, each claiming an amount of Rs.2230.40 viz. Rs.393.60 per month, for the period 13.5.1983 to 24.10.1983 on the ground that pursuant to award dated 12.5.1983 they reported for duty on 13.5.1983 but they were not given any duty by that date.

Harmel Singh, President put in appearance on 6.12.1983 but did not appear on the next date i.e. 18.1.1984. Therefore, the petitioner-Society was proceeded ex-parte and the said applications were disposed of separately vide orders dated 30.3.1984, copy Annexure P-3 by the Labour Court, thereby upholding the claims of the workmen.

Thereafter, the petitioner-Society filed applications for setting aside the ex-parte orders passed on the applications under Section 33-C(2) of the Act, on 17.12.1984, but that very applications were dismissed by the Labour Court vide orders dated 20.11.1986, copy Annexure P-5.

Dissatisfied with the same, the petitioner-Society has impugned the orders Annexures P-3 and P-5 passed separately in respect of both the workmen, through the instant petitions.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

A bare perusal of the order dated 23.11.1983 (Annexure P-6) passed by the Assistant Registrar Cooperative Societies, Moga (exercising the powers of Registrar, Cooperative Societies) suggests that the management of the Society had been suspended and one Sohan Singh, Inspector Milk Supplies had been appointed as Administrator for managing the affairs of the Society till further orders. Therefore, by virtue of the said order Harmel Singh, who was the President of the Society, was not exercising any power as President of the Society and certainly had no authority to appear before the Labour Court, Bhatinda in response to the applications filed by the respondent-workmen under Section 33-C(2) of the Act ibid. Further the aforesaid applications though are dated 9.11.1983 but they had been filed in the Court on 6.12.1983. Admitted position is that Harmel Singh had put in appearance on that very day in response to the said application. This supports the plea of the petitioner Society that there had been a collusion between the workmen and Harmel Singh as he had put in appearance on that very day before the notice could be issued to the Society by the Labour Court. In the backdrop of these facts, when the vital rights of the parties are to be determined by the Court, this Court is of the considered view that the Labour Court has totally erred in dismissing the applications filed by the petitioner Society for setting aside the ex-parte orders dated 30.3.1984.

In these circumstances, the instant petitions are allowed and the order dated 30.3.1984 vide which the applications filed by respondent-workmen under Section 33-C(2) of the Act were disposed of and further the order dated 20.11.1986 by virtue of which the applications filed by the petitioner-Society for setting aside the ex-parte order were dismissed, are quashed. The matter is remitted back to the Labour Court for adjudication of the lis afresh, on merits. The Labour Court shall proceed with the matter right from the stage where the petitioner-Society was proceeded ex-parte and shall afford appropriate opportunities to both the parties to led their respective evidence.

The parties are directed to appear before the Labour Court on 15.12.2006.

Since the matter pertains to the year 1987, it is directed that the Labour Court shall decide the matter expeditiously, preferably within a period of six months from the date of appearance of parties before it.

(ARVIND KUMAR)
JUDGE

November 29 ,2006
Jiten